United Nations A/HRC/31/L.26

General Assembly

Distr.: Limited
21 March 2016

Original: English

Human Rights Council
Thirty-first session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Albania, Andorra,* Argentina,* Armenia,* Australia,* Austria,* Belgium, Bosnia and Herzegovina,* Brazil,* Bulgaria,* Canada,* Chile,* Costa Rica,* Croatia,* Cyprus,* Czech Republic,* Denmark,* Djibouti,* Estonia,* Finland,* France, Georgia, Germany, Ghana, Greece,* Hungary,* Iceland,* Ireland,* Italy,* Latvia, Liechtenstein,* Lithuania,* Luxembourg,* Malta,* Mexico, Montenegro,* Morocco, New Zealand,* Norway,* Panama, Paraguay, Peru,* Poland,* Portugal, Republic of Moldova,* Romania,* Slovakia,* Slovenia, Spain,* Sweden,* the former Yugoslav Republic of Macedonia, Tunisia,* Turkey,* Ukraine,* United States of America,* Uruguay:* draft resolution

31/... Torture and other cruel, inhuman or degrading treatment or punishment: safeguards to prevent torture during police custody and pretrial detention

The Human Rights Council,

Recalling all resolutions on torture and other cruel, inhuman or degrading treatment or punishment adopted by the General Assembly, the Commission on Human Rights and the Human Rights Council,

Recognizing that law enforcement officials play a vital role in the protection of the right to life, liberty and security, as enshrined in the Universal Declaration of Human Rights and reaffirmed in the International Covenant on Civil and Political Rights,

Recognizing also the role of law enforcement officials in serving the community and protecting all persons against acts of torture and other cruel, inhuman or degrading treatment or punishment, consistent with the important role of their profession, and that the Code of Conduct for Law Enforcement Officials states that, in the performance of their duty, law enforcement officials shall respect and protect human dignity, and respect and protect the human rights of all persons,

* Non-member State of the Human Rights Council.

Please recycle

Recalling the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)[1] and the adoption of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules),[2]

Recalling also that accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication,

Recalling further article 11 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, according to which each State party shall keep under systematic review interrogation rules, instructions, methods and practices, as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture,

Mindful of existing principles, guidelines and standards relevant to interrogation, including the United Nations Code of Conduct for Law Enforcement Officials and the United Nations Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment, , and also mindful of the Luanda Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa, adopted by the African Commission on Human and Peoples' Rights, the Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, adopted by the Inter-American Commission on Human Rights, and the revised standards for law enforcement agencies, issued by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment,

1. *Emphasizes* that States must take persistent, determined and effective measures to prevent and combat all acts of torture and other cruel, inhuman or degrading treatment or punishment, stresses that all acts of torture must be made offences under domestic criminal law punishable by appropriate penalties that take into account their grave nature, and calls upon States to prohibit under domestic law acts constituting cruel, inhuman or degrading treatment or punishment;

2. *Urges* all States that have not yet done so to become parties to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and to give early consideration to signing and ratifying the Optional Protocol thereto as a matter of priority;

3. *Welcomes* the Convention against Torture Initiative, launched in March 2014 on the thirtieth anniversary of the adoption of the Convention, to achieve the universal ratification and improved implementation of the Convention by 2024, as well as related regional initiatives on the prevention and eradication of torture;

4. *Urges* States to adopt, implement and comply fully with legal and procedural safeguards against torture and other cruel, inhuman or degrading treatment or punishment, as well as to ensure that the judiciary, and where relevant the prosecution, can effectively ensure compliance with such safeguards;

5. *Stresses* that effective legal and procedural safeguards for the prevention of torture and other cruel, inhuman or degrading treatment or punishment include ensuring that any individual arrested or detained on a criminal charge is brought promptly before a judge or other independent judicial officer, and permitting prompt and regular medical care and legal counsel at any stage of detention as well as visits by family members;

---

[1] General Assembly resolution 65/229, annex.

[2] General Assembly resolution 70/175, annex.

6. *Also stresses* the obligation of States to ensure that anyone who is arrested is informed at the time of arrest of the reasons for the arrest, and is promptly informed of any charges against him or her in accessible forms of communication, including in a language that he or she understands, and be provided with information about and an explanation of his or her rights;

7. *Calls upon* States in the context of criminal proceedings to ensure access to lawyers from the outset of custody and during all interrogations and judicial proceedings, as well as timely access of lawyers to appropriate information to enable them to provide effective legal assistance to their clients;

8. *Encourages* States to ensure that a proper and consented medical examination by a medical practitioner is available to persons in police custody and pretrial detention as promptly as possible after their admission to the place of detention, and to ensure that the results of every examination and relevant statements by the detainee and the medical practitioner's conclusions are duly recorded and made available to the detainee in accordance with relevant rules of domestic law;

9. *Also encourages* States to ensure the compilation and maintenance of up-to-date official registers and/or records of persons in police custody or pretrial detention, which, as a minimum, contain information about (a) the reasons for the arrest; (b) the time of the arrest and the taking of the arrested person to a place of custody, as well as that of his or her first appearance before a judicial or other authority; (c) the identity of the law enforcement officials concerned; (d) precise information concerning the place of custody; and to communicate such records to the detained person or his or her counsel, as prescribed by law;

10. *Stresses* the importance of developing corroborating methods of crime investigation to eliminate or reduce sole reliance on confessions for the purpose of securing convictions, and the importance of seeking corroborative evidence through all available modern, scientific methods of crime investigation, including through appropriate investment in equipment, skilled human resources and international cooperation on capacity-building;

11. *Also tresses* the importance of keeping under systematic review interrogation rules, instructions, methods and practices, and of developing domestic guidelines on how to conduct interrogations with a view to preventing any cases of torture and other cruel, inhuman or degrading treatment or punishment;

12. *Urges* States during reviews of domestic interrogation rules, instructions, methods and practices to ensure that they observe their international obligations, that safeguards against torture and other cruel, inhuman or degrading treatment or punishment are in place, and that during such reviews they are mindful of the particular importance of safeguards, to ensure that:

(*a*) The physical environment and conditions during interrogation are humane;

(*b*) The length of interrogation sessions are in accordance with obligations under international human rights law, including the prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

(*c*) Interrogated persons are not subjected to coercive methods of interrogation that impair their capacity of decision or their judgement, or forces them to confess, incriminate themselves or testify against any other person;

(*d*) All persons during police custody and pretrial detention subjected to interrogation are afforded the right to the presence and assistance of a lawyer and, if

necessary, the presence and services of a properly qualified interpreter during interrogation sessions;

(*e*) Records of interrogation sessions during police custody and pretrial detention, including their duration and the intervals between sessions, as well as the identity of the law enforcement official who conduct the interrogations and other persons present, are kept accurately and that such records are stored safely;

(*f*) Rules are in place to obligate law enforcement officials to report instances of torture or other cruel, inhuman or degrading treatment or punishment to their superior authorities, with appropriate sanctions for non-reporting, and, where necessary, that independent organs are vested with reviewing or remedial power;

(*g*) Consideration is given at all times to the personal circumstances of the interrogated person;

13. *Stresses* that States must ensure that no statement that is established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, urges States to extend that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, and recognizes that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;

14. *Calls upon* States to include education and information regarding the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment in the training of law enforcement personnel, which may include training on, inter alia, the use of force and all available modern scientific methods for crime investigation and the critical importance of reporting instances of torture or other cruel, inhuman or degrading treatment or punishment to superior authorities;

15. *Emphasizses* that it is important, for the ability of law enforcement officials to play their role in safeguarding the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, that States ensure the proper functioning of the criminal justice system, particularly by taking effective measures for combating corruption, establishing proper legal aid programmes and providing adequate selection, training and remuneration of law enforcement officials;

16. *Stresses* that inspections of places of police custody and pretrial detention by an independent authority contribute to the prevention of torture and other cruel, inhuman or degrading treatment or punishment, and that, to be fully effective, such visits should be regular and able to be made unannounced, and the authority should be empowered to examine all issues related to the treatment of persons in police custody and pretrial detention and to interview detained persons in full confidentiality, subject to reasonable conditions to ensure security and good order in such places;

17. *Emphasizes* that States are obligated to ensure that any person who alleges to have been subjected to torture or other cruel, inhuman or degrading treatment or punishment in any territory under its jurisdiction has the right to complain to the competent authorities, and that steps are taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his or her complaint or any evidence given;

18. *Stresses* that an independent, competent domestic authority must promptly, effectively and impartially investigate all allegations of torture or other cruel, inhuman or degrading treatment or punishment, as well as wherever there is reasonable ground to believe that such an act has been committed, and that those who encourage, instigate, order, tolerate, acquiesce in, consent to or perpetrate such acts must be held responsible, brought

to justice and punished in a manner commensurate with the severity of the offence, including officials in charge of any place of detention or other place where persons are deprived of their liberty where the prohibited act is found to have been committed;

19. *Invites* the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and other relevant special procedures, within their respective mandates, to take the present resolution into account in their future work;

20. *Welcomes* the work of the Special Rapporteur and takes note of his latest report;[3]

21. *Requests* the Office of the United Nations High Commissioner of Human Rights to convene, in 2017, an intersessional, full-day seminar with the participation of States, relevant United Nations agencies, funds and programmes, and other relevant stakeholders, with interpretation in the six official languages of the United Nations, with the objective of exchanging national experiences and practices on the implementation of effective safeguards to prevent torture and other cruel, inhuman or degrading treatment or punishment during police custody and pretrial detention, and invites the Office to cooperate with other relevant United Nations organizations and the Convention against Torture Initiative in the preparation of the seminar;

22. *Also requests* the Office of the High Commissioner to prepare a summary report of the above-mentioned seminar, and to submit the report to the Human Rights Council at its thirty-seventh session.

---

[3] A/HRC/31/57.